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November 9, 2000

FEDERAL EXPRESS

Mr. Dale H. Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
Jefferson City, Missouri 65101

Re: **Empire District Electric Company**  
**Case No. ER-2001-299**

Dear Mr. Roberts:

Enclosed are the original and eight (8) conformed copies of **Application to Intervene**, submitted on behalf of Praxair Inc., which please file in the above matter and call to the attention of the Commission.

An additional copy of the **INITIAL PAGE** of the material to be filed is enclosed, which kindly mark as received and return to me in the enclosed envelope as proof of filing.

Thank you for your attention to this important matter. If you have any questions, please call.

Sincerely yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By: 

Stuart W. Conrad

SWC:s  
Enclosures  
cc: All Parties

**FILED<sup>2</sup>**  
NOV 13 2000  
Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>  
NOV 13 2000

Missouri Public  
Service Commission

In the matter of the Application of )  
The Empire District Electric Compa- )  
ny for authority to file tariffs )  
reflecting increased charges for )  
electric service within its Mis- )  
souri service area )

ER-2001-299  
(TF-2001-00518)

APPLICATION TO INTERVENE

COMES NOW PRAXAIR, INC. ("Praxair") pursuant to 4  
C.S.R. 240-2.075 and applies to intervene herein and become a  
party hereto for all purposes in respect to the filing for  
increased rates made herein by Empire District Electric Company  
("Empire") on or about November 3, 2000. In support thereof,  
Praxair respectfully states:

1. Praxair is a large industrial electric customer of  
Empire. Praxair operates a major air liquefaction and constitu-  
ent gas production facility near Neosho, Missouri. Praxair is  
the successor in interest to the Linde Division of Union Carbide  
Corporation.

2. Through Praxair's own prior interventions and  
those of its predecessor, Praxair's interests in proceedings  
affecting the rates, terms and conditions of electric service  
from Empire have been previously recognized by the Missouri  
Public Service Commission in permitting Praxair's intervention in  
numerous rate design and electric rate proceedings concerning  
Empire, including without limitation the last series of Empire

rate increase cases, Case Nos. ER-94-174, ER-95-279 and ER-97-81/82 and in the currently-pending merger application of Empire and UtiliCorp United Inc. in Case No. EM-2000-369.

3. Correspondence or communications regarding this application, including service of all notices and orders of this Commission, should be addressed to:

Stuart W. Conrad, Esq.  
FINNEGAN, CONRAD & PETERSON, L.C.  
1209 Penntower Office Center  
3100 Broadway  
Kansas City, Missouri 64111  
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4. On November 3, 2000 Empire filed an application with this Commission requesting Commission approval of proposed tariff changes that would result in an increase in annual revenues of roughly \$41.6 million or roughly 20.7%. The reasons stated for this request include the assertion that a new power generation facility was needed and would be coming on line, increased costs of fuel, specifically natural gas, and other various cost increases.

5. Praxair is vitally interested in this proposed increase, in its terms and conditions, and its impact on ratepayers generally and upon Praxair specifically. As a major interruptible electric customer of Empire, Praxair is in a position to be directly affected by the proposed increase and may be bound or adversely affected by any Commission order issued in

this proceeding. Because Empire provides electricity to Praxair on an interruptible basis under separate contracts and rate schedules and because of Praxair's size and load factor, Praxair is in the special and unique position of representing an interest which will not and cannot be represented adequately by any other party and which interest is direct and immediate and differs from that of the general public. Therefore, it will aid the Commission and protect and advance the public interest that Praxair be permitted to intervene in this proceeding so as to protect its interest which no other party is in a position properly to protect and adequately represent.

6. Further, with regard to the proposed increase, Praxair is vitally interested in issues that are or may be raised by this filing with respect to any increase in Empire's rates and revenues, including, without limitation, (1) the revenues which will or may be realized under such rates and the increase over revenues resulting from former rates in effect before the current filing, (2) expenses and revenues to be charged to the appropriate test period, and (3) the design and structure of rates to raise the necessary revenues to meet Empire's proper class cost of service.

7. For purposes of 4 C.S.R. 240-2.075(2), Praxair states that it is opposed to the discriminatory pricing of electricity and related utility services. Further, Praxair states that at the present time the proposed rates have not been


shown to be either just or reasonable and they may, in fact, be unjust and unreasonable. Moreover, Empire appears to assert load growth as a justification for this increase. In other proceedings Empire personnel have indicated that Empire continues to experience growth in its load, but of a load characteristic that may not be properly or economically addressed through the addition of what appears to be presented as base load gas-fired generation. Further, by proposing that the increased revenue be spread on an equal percentage basis inclusive of existing fuel costs, Empire suggests among other things that: (1) all customer class revenues are currently in balance with respect to such classes' costs; (2) all customer classes are equally responsible for the growth alleged to have motivated the installation of new capacity; and (3) that additional load growth has not been more than offset by additional revenue such that no increase in rates is legally required nor needed.

8. Further, although in 1998 Empire settled an electric rate case before this Commission, such settlement concerned those cases only and did not establish that the resulting rates of Empire were not excessive. Accordingly, a proposal that assumes that existing rates are properly structured and simply applies an equal percentage increase to those rates has not been shown to properly reflect costs nor make a showing that such costs are proposed to be recovered from the customers and classes causing them.

WHEREFORE, Praxair prays: (a) that the proposed rate increase filing of November 3, 2000 be **suspended** for the full statutory period allowed and thereupon subjected to a full and thorough investigation and analysis; (b) that a procedural schedule be adopted providing for a hearing and the filing of exhibits and testimony; (c) that following such investigation the matter be set for hearing before the Commission in which the applicant utility shall be put to its proof regarding the need for the proposed increase and all aspects of its proposed methodology of recovery; and (d) that Praxair be permitted to intervene herein and be made a party hereto with all rights to have notice of and participate in hearings to present evidence, cross-examine witnesses, file briefs and participate in argument, should any be had; and (e) for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



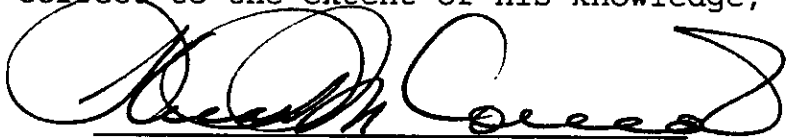
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Internet: stucon@fcplaw.com

ATTORNEYS FOR PRAXAIR, INC.

VERIFICATION

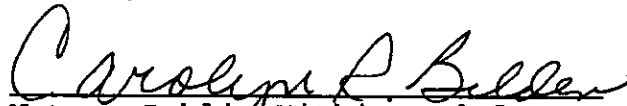
STATE OF MISSOURI     )  
                               )   ss.  
 COUNTY OF JACKSON    )

Comes now Stuart W. Conrad, and having been first duly sworn, states that he is counsel for the within applicant for intervention and has been duly authorized by appropriate authorities thereof to file this application; that he has read and is familiar with the contents thereof and that the statements therein made are true and correct to the extent of his knowledge, information and belief.



Stuart W. Conrad

IN WITNESS WHEREOF, I have hereunto set my hand and my official seal at my office in Kansas City, Jackson County, Missouri on this 9th day of November, 2000.

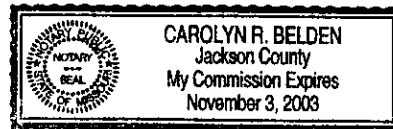


Notary Public Within and for  
said County and State

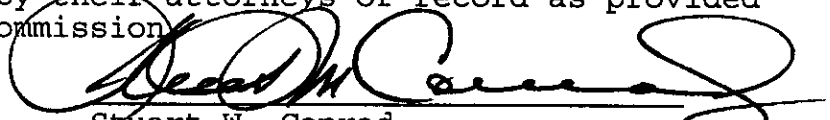
(SEAL)

My Commission Expires:

Nov 3, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Application for Leave to Intervene by U.S. mail, postage prepaid addressed to all parties by their attorneys of record as provided by the Secretary of the Commission



Stuart W. Conrad

Dated: November 9, 2000